

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

BETTINA M. OUAKNINE,

Plaintiff,

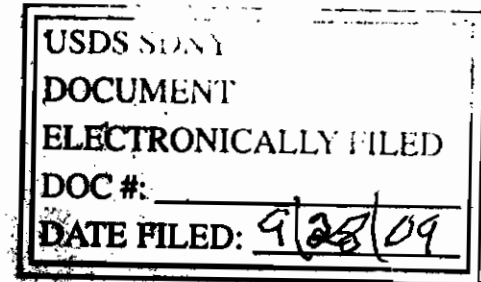
- v -

THE CITY OF NEW YORK, THE COUNTY OF  
NEW YORK, THE NEW YORK CITY POLICE  
DEPARTMENT, SGT. HERNANDEZ, P.O.  
CAHILL,

Defendants.

-----X

NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE



ORDER

09 Civ. 2992 (NRB)

**WHEREAS** plaintiff has alleged, *inter alia*, that she was  
falsely arrested by New York City police officers; and

**WHEREAS** counsel for defendants the City of New York and the  
New York City Police Department ("the Corporation Counsel")  
requested a "Designation of Agent for Access to Sealed Records  
Pursuant to NYCPL § 160.50(1)(d)" ("§ 160.50 Release") from  
plaintiff on May 12, 2009 and on June 15, 2009; and

**WHEREAS** the § 160.50 Release is necessary to this case,  
insofar as it would permit the Corporation Counsel to obtain the  
records of the underlying criminal case at issue, without which  
defendants cannot fully and fairly litigate this case; and

**WHEREAS** the Corporation Counsel requested on July 13, 2009 that the Court compel plaintiff to provide the Corporation Counsel with the \$ 160.50 Release; and

**WHEREAS** the Court ordered plaintiff on July 16, 2009 to deliver a properly executed \$ 160.50 Release to the Corporation Counsel by August 4, 2009; and

**WHEREAS** the Court is informed that the Corporation Counsel has attempted without success to contact plaintiff on numerous occasions since July 16, 2009 to secure the \$ 160.50 Release; and

**WHEREAS** the Court received a letter from the Corporation Counsel on August 20, 2009 requesting that this action be dismissed pursuant to (1) Fed. R. Civ. P. 37(b) for failure to comply with a court order, and (2) Fed. R. Civ. P. 41(b) for failure to prosecute; and

**WHEREAS** the Court attempted repeatedly without success to contact plaintiff via telephone during the week of August 24, 2009; and

**WHEREAS** the Court ordered plaintiff on September 10, 2009 to contact the Court and provide the \$ 160.50 Release by September 21, 2009; and

**WHEREAS** the Court further ordered on September 10, 2009 that plaintiff's failure to provide the \$ 160.50 Release by September 21, 2009, or provide a reasonable explanation of why

she could not do so, would result in dismissal of plaintiff's action pursuant to Fed. R. Civ. P. 41(b); and

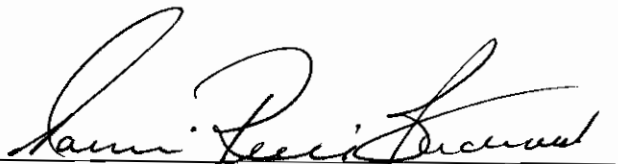
**WHEREAS** plaintiff did not provide either the Court or the Corporation Counsel with the § 160.50 Release by September 21, 2009 and did not provide a reasonable explanation of why she could not do so; and

**WHEREAS** plaintiff has to this day failed to provide either the Court or the Corporation Counsel with the § 160.50 Release or given a reasonable explanation of why she cannot do so; and

**WHEREAS** Fed. R. Civ. P. 41(b) permits an action to be dismissed as a result of plaintiff's "fail[ure] to prosecute or to comply with . . . a court order"; it is hereby

**ORDERED** that plaintiff's action is dismissed with prejudice.

Dated: New York, New York  
September 25, 2009

  
\_\_\_\_\_  
NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

A copy of the foregoing Order has been mailed on this date to the following:

**Plaintiff**

Bettina M. Ouaknine  
345 East 56 Street, Apt. 21A  
New York, NY 10022  
917-805-5090

**Counsel for Defendants**

Shlomit Aroubas  
Office of the Corporation Counsel  
Law Department  
City of New York  
100 Church Street  
New York, NY 10007